IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

APPLICATION NO.1004 OF 2007
IN
APPEAL NO. 815 OF 2007

Shri.Madhav Dhondiba Yachwad ..Applicant

Vs.

The State of Maharashtra
& Anr. ..Respondents

Mr.K.S.Patil Advocate for Applicant
Mr.D.S.Mhaispurkar APP for State

**CORAM: S.B.MHASE AND**
**SMT.V.K.TAHILRAMANI,JJ.**

**DATE : DECEMBER 18, 2007**

**P.C.**

1. Heard.

2. This is the bail application of the applicant-original accused no.3 Madhav Dhondiba Yachwad. He has been convicted in Sessions Case No. 119 of 2006 by the Ad-hoc Additional Sessions Judge-4 Satara. The incident is of 4.1.2006. It appears that on that day, the deceased along with the convicted accused nos.1 to 3 and acquitted accused nos. 4 to 6 had been to back water of

Tapola at Mahabaleshwar. Since they did not have any place to stay in the reserved forest, they decided to stay along with driver of the launch. The deceased was also a driver of vehicle of the accused nos.1 to 3 and acquitted accused nos. 4 to 6. It appears that on the bank of the reservoir, they have taken drinks and under the influence of drinks, the deceased along with applicant-accused no.3 slept on the bank of the said reservoir and the rest of the accused slept in the house of the launchman. Next day morning, the applicant-accused no.3 was found sleeping on the bank of the reservoir, however, the deceased was not traced. All the accused tried to find him, but the deceased was not traced. Thereafter, the information was given to the father of the deceased. The father of the deceased also came to the spot and later on dead body of the deceased was recovered from the water of the reservoir. The cause of death as evident from the post mortem report is "drowning" and there is no any other external or internal injury on the person of the deceased which shows that there was no any kind of physical violence to the deceased. Prima facie, what we find is that the death must have

occurred because the deceased must have slipped and fallen in the water and ultimately succumbed to death due to drowning. Because the accused no.3 was travelling together with deceased, and they had drinks together, the applicant is suspected to have caused the death of deceased. There is no relation of the accused persons with the deceased who was a driver and the deceased had been hired only for that trip, prima facie, there is no motive for the applicant-accused no.3 to kill the deceased. Therefore, what we find is that it is a fit case where the bail during the pendency of the appeal, will have to be granted. One more reason also is available viz. during the trial of the case, the accused was on bail and he has not misused the liberty and therefore, we are inclined to grant bail.

3. Application is allowed. The applicant-Madhav Dhondiba Yachwad to be released on bail of Rs.10,000/-(Rs. ten thousand only) with like surety till the disposal of the appeal.

4. Application is disposed of.

[SMT.V.K.TAHILRAMANI, J.] [ S.B.MHASE, J.]